

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

LLS AMERICA, LLC,  
Debtor,

BRUCE P. KRIEGMAN, solely in his  
capacity as court-appointed Chapter 11  
Trustee for LLS America, LLC,

Plaintiff,

v.

LAZY M, LLC, et al.,

Defendants.

NO: 2:12-CV-668-RMP

ORDER DENYING DEFENDANT'S  
MOTION FOR A NEW TRIAL  
AND/OR TO AMEND JUDGMENT

BEFORE THE COURT is Defendant David Perry's Motion for a New Trial  
and/or to Amend Judgment,<sup>1</sup> ECF No. 176. The Court has reviewed the record and  
is fully informed.

<sup>1</sup> The Motion most closely resembles a Motion for a New Trial and/or to Amend  
Judgment but Perry refers to his Motion as a "Notice of Fraud Before the Court"

ORDER DENYING DEFENDANT'S MOTION FOR A NEW TRIAL AND/OR  
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1 ANALYSIS

2 Pursuant to FED. R. Civ. P. 59:

3 The court may, on motion, grant a new trial on all or some of the issues--and  
4 to any party--as follows: . . . .

5 (B) after a nonjury trial, for any reason for which a rehearing has heretofore  
6 been granted in a suit in equity in federal court.

7 Following a nonjury trial and upon motion for a new trial, a court may “open the  
8 judgment if one has been entered, take additional testimony, amend findings of fact  
9 and conclusions of law or make new ones, and direct the entry of a new judgment.”

10 FED. R. Civ. P. 59. “There are three grounds for granting new trials in court-tried  
11 actions under Rule 59(a)(2): (1) manifest error of law; (2) manifest error of fact;  
12 and (3) newly discovered evidence.” *Brown v. Wright*, 588 F.2d 708, 710 (9th Cir.  
13 1978) (citing 6A Moore's Federal Practice P 59.07 at 59-94).

14 In his current motion, Defendant David Perry seeks to re-litigate issues that  
15 have already been determined at trial by presenting evidence that was previously  
16 before this Court and has already been considered. Defendant’s different  
17 interpretations of evidence that have already been considered by this Court are not  
18 proper grounds for granting a new trial. He fails to provide this Court with  
19 evidence of any error of fact or law or any newly discovered evidence. His claims

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20 ‘Manifest Injustice’ Motion for New Trial as Necessary for Justice and/or  
21 Amending Judgement.”

ORDER DENYING DEFENDANT’S MOTION FOR A NEW TRIAL AND/OR  
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1 regarding "manifest injustice" are unpersuasive and this Court finds no good cause  
2 to grant a new trial.

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Defendant David Perry's Motion for New Trial and/or to Amend  
5 Judgment, **ECF No. 176**, is **DENIED**.

6 The District Court Clerk is directed to enter this Order and provide a copies  
7 to counsel.

8 **DATED** this 9th day of December.

9  
10 s/ Rosanna Malouf Peterson  
11 ROSANNA MALOUF PETERSON  
Chief United States District Court Judge  
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